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U.S. DISTRICT COURT  
 DISTRICT OF IDAHO  
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Attorneys for Defendant/Third-Party Plaintiff  
 InterDent Service Corporation

IN THE UNITED STATES DISTRICT COURT  
 DISTRICT OF IDAHO

POCATELLO DENTAL GROUP, P.C., an  
 Idaho professional corporation,

Plaintiff,

v.

INTERDENT SERVICE CORPORATION, a  
 Washington corporation,

Defendant.

INTERDENT SERVICE CORPORATION, a  
 Washington corporation,

Third-Party Plaintiff,

v.

POCATELLO DENTAL GROUP, P.C., an

Case No. CV-03-450-E-LMB

INTERDENT SERVICE  
 CORPORATION'S OPPOSITION TO  
 POCATELLO DENTAL GROUP'S  
 MOTION FOR ORDER COMPELLING  
 DISCOVERY

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Idaho professional corporation; DWIGHT G. ROMRIELL, individually; LARRY R. MISNER, JR., individually; PORTER SUTTON, individually; ERNEST SUTTON, individually; GREGORY ROMRIELL, individually; ERROL ORMOND, individually; and ARNOLD GOODLIFFE, individually,

Third-Party Defendants.

Defendant/third-party plaintiff InterDent Service Corporation ("TSC") submits the following memorandum in opposition to plaintiff Pocatello Dental Group (the "PDG")'s Motion for Order to Compel Discovery.

### **I. INTRODUCTION**

At the center of this discovery dispute is the question of whether *res judicata* precludes the PDG from relitigating issues were resolved by the confirmation of ISC's Plan of Reorganization on October 3, 2003. The PDG has essentially admitted that this is its strategy—to get a second, albeit cheaper, bite at the apple. In his deposition, the PDG's former president, Dr. Larry Misner, Jr. admitted:

“Q: You said you made an appeal in bankruptcy court. What was your understanding of what you were doing in bankruptcy court?

A: My understanding was that the claim we presented there was to not have the [management] agreement \* \* \* assumed by InterDent.

\* \* \*

Q: And at some point you decided to drop that claim, right?

A: Based on further discussion with some of the members of the group \* \* \*, they didn't necessarily want to go on with that strategy, so I made the decision that we not pursue that.

Q: Was it that they didn't want to have to go to court in California?

A: That may have been a consideration, yes.

\* \* \*

Q: \* \* \* Other than what you were told by your lawyer, what other concerns did they have about the bankruptcy strategy?

A: The cost.

Q: On the cost issue, did you decide it would be cheaper to litigate in Idaho?

A: It would be less expensive if the decision was made to litigate in Idaho, yes. (Deposition of Dr. Leroy Russell Misner Deposition at 149:6-150:18.)<sup>1</sup>

For reasons detailed in ISC's Motion for Summary Judgment, the U.S. Bankruptcy Court for the Central District of California's approval of ISC's Bankruptcy Plan on October 3, 2003 constitutes a final judgment and the Group's Stipulation on October 8, 2003 constitutes a final judgment, *res judicata* applies. *Rein v. Provident Financial Corporation*, 270 F.3d 895, 898-99 (9th Cir. 2001) ("Res judicata, or claim preclusion, provides that a final judgment on the merits of an action precludes the parties from relitigating all issues connected with the action that were or could have been raised in that action."). *In re Dominelli*, 820 F.2d 313, 316-17 (9th Cir. 1987) (judicially approved settlement is final judgment on merits). Despite choosing to flout the orders of the Bankruptcy Court because it would be less costly for it to litigate in Idaho, the PDG seeks to *increase* ISC's costs and burden of discovery by seeking discovery it could and should have obtained in the Bankruptcy Court. The PDG chose not to litigate pre-confirmation issues in the proper forum and is bound by that choice. Its numerous requests for documents and information dating back over a decade should therefore be limited in scope to documents and information *after* October 3, 2003.

Besides the above, there is another issue that pervades a number of the disputed requests—entry of an appropriate protective order. Under the Health Insurance Portability and

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<sup>1</sup> Cited portions attached as Exhibit 1.

Accountability Act of 1996("HIPAA"), ISC is obligated not to turn over certain sensitive documents pertaining to patients prior to the entry of a protective order signed by all parties. 45 CFR § 164.512(e)(1)(v). This has not yet happened because counsel for certain of the PDG's shareholders has refused to sign a form of protective order. The PDG knows this—*its* counsel signed the form of stipulated protective order—yet inexplicably moved to compel nonetheless. ISC has moved for entry of a protective order to resolve this issue. Once such a protective order is entered, ISC will produce the responsive documents. ISC suggests that the PDG's efforts would have been better spend convincing its shareholders to sign on to the protective order rather than filing a motion to compel ISC to produce information that ISC is legally barred from producing.

For simplicity and readability, ISC has not set forth the disputed interrogatories, requests for production and requests for admissions in full detail. These requests/ISC's responses are attached for reference. Instead, because ISC's arguments fall generally into the categories discussed above, the section below merely lists the discovery requests with the corresponding argument. Regarding the Requests for Admissions, ISC's responses to each meet the requirements of Fed. R. Civ. P. 36. The fact that the PDG might not like the response is not grounds for an objection.

Additional discussion and argument is provided where necessary.

## **II. ARGUMENT**

### **A. The interrogatory/request for production is overbroad to the extent it seeks documents or information prior to October 3, 2003. (See Part I above.)**

Interrogatories Nos. 1, 3, 4, 6, 16, 17, 18, 19

Requests for Production Nos. 1, 5, 8, 10, 12, 13, 14, 16, 17, 18, 22

Requests for Admission Nos. 6, 8, 9

**B. ISC will provide response documents upon entry of the protective order.  
(See Part I above).**

Interrogatories Nos. 2, 6, 12, 15

Requests for Production Nos. 2, 8, 11, 14, 17, 18, 31

**C. The interrogatory/request seeks information not reasonably calculated to  
lead to discoverable evidence. (See additional explanation below.)**

Interrogatories Nos. 1, 3, 10, 11, 20, 21, 22

Requests for Production Nos. 13, 14, 15, 17, 18, 19, 21, 22, 23, 25

Requests for Admissions Nos. 4, 6, 8, 9, 10

**D. Other arguments.**

**1. Interrogatories**

**No. 1-**The interrogatory seeks information relating to the "terms and conditions" of the merger. The PDG has the merger documents, which are completely and wholly responsive to this request. *See* Fed R. Civ. P. 33(d). In any event, that ISC is the successor to all rights under the Management Agreement was conclusively determined by the Bankruptcy Court.

**No. 6-**This interrogatory seeks to have ISC identify "revenues" that ISC retained "for [its] own use rather than the payment of obligations [ISC] is required to pay under the Management Agreement." The request assumes a legal conclusion---what ISC is or is not required to pay under the Management Agreement. Moreover, as the PDG is aware, it is ISC's position that under Section 2.6(a) the PDG assigned *all* revenues to ISC. And, as noted above, ISC will provide responsive business records once the protective order is finally entered.

**Nos. 20, 21, 22-**ISC has not hired any attorneys to represent the PDG since October 3, 2003. The PDG might not like this answer, but that is no basis to move to compel.

**2. Requests for Production**

**No. 2-**The PDG seeks monthly, quarterly and annual profit and loss statements from October 1996 until the present. The request is overbroad and unduly burdensome to the

extent it seeks documents dating back nearly a decade. ISC will produce responsive documents for a reasonable time period, since January 1, 2002, upon the entry of an acceptable protective order covering confidential and proprietary business information.

**No. 11-**The PDG seeks any and all information identifying the name and address of any dental patients for the past four years. First, information relating to patients is available to the PDG. To the extent that the PDG alleges that it needs additional documents that are somehow not available to it, ISC should not have to produce its computer database to dentists who are competing with ISC (Drs. Misner and Dwight Romriell), are in the process of preparing to compete with ISC (Drs. Ormond and Gregory Romriell) and who have aided and abetted dentists who are already competing.

**Nos. 13 and 18-**ISC objects to the PDG's use of the term "Plaintiff's revenues" because it states a legal conclusion and a false one. The Management Agreement defines "revenues"—not "the PDG's revenues"—in Section 2.4. In Section 2.6(a), the PDG assigns "all Revenues" to ISC. Thus, there is no such thing as "Plaintiff's revenues" under the Management Agreement. With regard to Request No. 18, interest earned on the revenues, if any, belongs to ISC.

**No. 19-**Tax returns are not discoverable unless there are no other, less intrusive means of obtaining information. *Premium Service Corp. v. Sperry & Hutchison Co.*, 511 F2d 225, 229 (9th Cir 1975). Obviously, the PDG's shareholders (the ones who actually file returns) would object if ISC sought their tax returns.

**No. 21-**The PDG seeks all documents relating to ISC's lease at 4155 Yellowstone Avenue in Pocatello. ISC has no obligation to disclose information related to lease issues to its current or future competitors in order to assist them in locating space from which to compete.

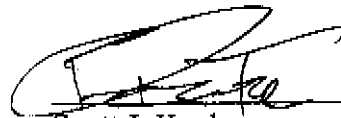
**No. 23-**The PDG seeks "any documents relating to any civil complaint or lawsuit" since 1996. Besides not being reasonably calculated to lead to admissible evidence, many documents that would in theory be responsive to such a request run afoul of the attorney-client privilege and work product doctrine.

### **III. CONCLUSION**

For the above reasons, the Court should deny the Group's motion to compel.

DATED: August 5, 2004.

STOEL RIVES LLP

A handwritten signature in black ink, appearing to read "Scott J. Kaplan", is written over a horizontal line.

Scott J. Kaplan

G. Rey Reinhardt

Darian A. Stanford

Attorneys for Defendant/Third-Party Plaintiff  
InterDent Service Corporation

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5<sup>th</sup> day of August, 2004, I caused to be served a true copy of the foregoing **Interdent Service Corporation's Opposition To Pocatello Dental Group's Motion For Order Compelling Discovery** upon the following:

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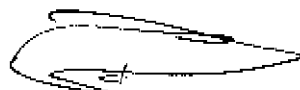
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DATED: this 5<sup>th</sup> day of August, 2004.



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## **EXHIBIT 1**

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Attorneys for Defendant/Third-Party Plaintiff  
InterDent Service Corporation

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO

POCATELLO DENTAL GROUP, P.C., an  
Idaho professional corporation,

Plaintiff,

v.

INTERDENT SERVICE CORPORATION, a  
Washington corporation,

Defendant.

Case No. CV-03-450-E-LMB

RESPONSE TO PLAINTIFF'S FIRST  
SET OF DISCOVERY REQUESTS TO  
THE DEFENDANT INTERDENT  
SERVICE CORPORATION

INTERDENT SERVICE CORPORATION, a  
Washington corporation,

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 1

Portland3-1476644.1 0021164-00081

Third-Party Plaintiff,

v.

POCATELLO DENTAL GROUP, P.C., an  
Idaho professional corporation; DWIGHT G.  
ROMRIELL, individually; LARRY R.  
MISNER, JR., individually; PORTER  
SUTTON, individually; ERNEST SUTTON,  
individually; GREGORY ROMRIELL,  
individually; ERROL ORMOND,  
individually; and ARNOLD GOODLIFFE,  
individually,

Third-Party Defendants.

Defendant/third-party plaintiff InterDent Service Corporation ("ISC") responds as follows to Plaintiff's First Set of Discovery Requests (the "Requests") as follows.

#### GENERAL OBJECTIONS

1. ISC objects to each request for production to the extent it seeks documents in the possession and control of plaintiffs.
2. ISC objects to the disclosure of personal and private information and reserves the right to withhold and/or redact all such information.
3. To the extent that the interrogatories seek information outside its custody or control, ISC objects to them as unreasonable and unduly burdensome.
4. In responding to the interrogatories, ISC does not waive and expressly reserves (a) any objections as to competency, relevancy, materiality, privilege or admissibility with respect to any of the information provided; (b) the right to object to other discovery procedures involving or related to the subject matter of the information provided; and (c) the right at any time to revise, correct, add to or clarify any of the information provided.

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 2

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5. ISC objects generally to the Requests to the extent they seek work product, trial preparation materials or material protected by the attorney-client privilege. ISC does not intend to produce any information or documents that contain such materials and does not waive any objections to such information or documents that are inadvertently produced.

6. ISC objects to the production of documents or disclosure of information generated before the confirmation of ISC's Plan of Reorganization in October 2003 as not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff concedes that ISC is entitled to partial summary judgment against plaintiff's claims for damages before October 3, 2003.

7. ISC objects that plaintiff's interrogatories include subparts. Plaintiffs have more than exceeded the number of interrogatories permitted by Fed. R. Civ. P. 33(a) and are precluded from propounding any additional interrogatories.

8. ISC objects to the discovery requests to the extent they call for disclosure of confidential business or proprietary information or confidential patient information protected by the Health Insurance Portability and Accountability Act ("HIPAA"). ISC will not produce documents until a protective order meeting the requirements of HIPAA governing the production and handling of such information is entered in this case.

Without waiving its general objections, ISC responds to the individual requests as follows:

### **RESPONSES TO INTERROGATORIES**

#### **INTERROGATORY NO. 1:**

Identify any person with knowledge of the terms and conditions of any merger between Gentle Dental Management, Inc. and Gentle Dental Service Corporation.

**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 3**

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**RESPONSE:** ISC objects that the terms of the merger documents speak for themselves and that the interrogatory is overbroad and seeks information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, plaintiff's stipulation in U.S. Bankruptcy Court that ISC would assume the Management Agreement precludes plaintiff from challenging the existence ISC's rights under that agreement.

**INTERROGATORY NO. 2:**

Identify any person with knowledge of any "2028" report or other list of dental patients who, at any time, were refused the right to obtain or continue to receive dental care from the Plaintiff or its dentists.

**RESPONSE:** ISC objects that the terms of the documents speak for themselves and that the interrogatory is overbroad and seeks information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited to events after October 3, 2003. ISC further objects that this interrogatory assumes facts not in evidence. Without waiving its objections, ISC states that the following persons are most knowledgeable on this subject: Barbara Henderson, Bruce Call and the individual dentists who requested or approved such discontinuance of treatment at the Pocatello office.

**INTERROGATORY NO. 3:**

Describe any consideration paid by Gentle Dental Service Corporation to Gentle Dental or any other person or entity when it merged with Gentle Dental and acquired its contract rights, including those evidenced by the management agreement.

**RESPONSE:** ISC objects that the terms of the merger documents speak for themselves and that the interrogatory is overbroad and seeks information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. Moreover, plaintiff's

stipulation in U.S. Bankruptcy Court that ISC would assume the Management Agreement precludes plaintiff from challenging the existence ISC's rights under that agreement.

**INTERROGATORY NO. 4:**

Describe any requests for new or additional equipment, supplies, or staff made to the Defendant by the Plaintiff or any of its dentists.

**RESPONSE:** ISC objects to this request to the extent that such information is obviously in plaintiff's possession. ISC further objects that plaintiff has conceded that ISC is entitled to partial summary judgment for any claims for damages before the confirmation of ISC's Plan of Reorganization on October 3, 2004. Without waiving its objections, ISC is unaware of any such request after October 3, 2003. ISC's investigation is continuing. ISC will not supplement this response for information manufactured by plaintiff for the purpose of this litigation and/or to avoid summary judgment.

**INTERROGATORY NO. 5:**

Identify any person having knowledge of the facts stated in your answer to Interrogatory No. 4.

**RESPONSE:** ISC objects to this request to the extent that such information is obviously in plaintiff's possession. ISC further objects that the interrogatory is overbroad in calling for "any" person with knowledge. Without waiving its objections, ISC states: Bruce Call, Kevin Webb, Barbara Henderson, dentists employed by plaintiff.

**INTERROGATORY NO. 6:**

With respect to the period of time commencing on October 11, 1996 and continuing up through the date you answer these discovery requests, state the dollar amount of revenues, as that term is defined in paragraph 2.4 of the management agreement, which Defendant or its predecessors in interest have

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 5

retained for their own use, rather than the payment of any obligations Defendant is required to pay under the Management Agreement.

**RESPONSE:** ISC objects to this interrogatory as unduly burdensome, vague and assuming a legal conclusion (what ISC is or is not required to pay under the Management Agreement) as part of the interrogatory. ISC further objects that under the Management Agreement, *all* of the revenues as defined in that Agreement belong to ISC. ISC further objects that plaintiffs have conceded that ISC is entitled to partial summary judgment for any claims for damages before the confirmation of ISC's Plan of Reorganization on October 3, 2003. Without waiving its objections, ISC states that for the discoverable time period, after October 3, 2003, for expenses that it approved, it is not aware of an account due or overdue that is unpaid. ISC does not intend to supplement this response with information manufactured by plaintiff for the purpose of this litigation and/or to avoid summary judgment.

**INTERROGATORY NO. 7:**

Identify any person having knowledge of the facts stated in your answer to Interrogatory No. 6.

**RESPONSE:** ISC incorporates by reference its objections to Interrogatory No. 6. ISC further objects that Interrogatory No. 7 is overbroad in calling for ISC to name every person with knowledge. Without waiving its objections, ISC states that Kevin Webb and Bruce Call are most knowledgeable on this subject.

**INTERROGATORY NO. 8:**

With respect to the period of time commencing on October 11, 1996 and continuing up through the date you answer these discovery requests, state the dollar amount of revenues, as that term is defined in paragraph 2.4 of the management agreement, which Defendant or its predecessors have collected,

including any item identified as interest on Plaintiff's accounts receivable.

**RESPONSE:** ISC objects to this interrogatory as unduly burdensome, vague and assuming an erroneous legal conclusion ("Plaintiff's accounts receivable"). ISC further objects that under the Management Agreement, *all* of the revenues as defined in that Agreement belong to ISC. ISC further objects that plaintiff has conceded that ISC is entitled to partial summary judgment for any claims for damages before the confirmation of ISC's Plan of Reorganization on October 3, 2003. Without waiving its objections, ISC states that for the discoverable time period, after October 3, 2003, pursuant to Fed. R. Civ. P. 33(d), ISC will produce accounting records showing interest since October 3, 2003.

**INTERROGATORY NO. 9:**

Identify any person having knowledge of the facts stated in your answer to Interrogatory No. 8.

**RESPONSE:** ISC incorporates by reference its objections to Interrogatory No. 8. ISC further objects that Interrogatory No. 9 is overbroad in calling for ISC to name every person with knowledge. Without waiving its objections, ISC states that Barbara Henderson is most knowledgeable on this subject.

**INTERROGATORY NO. 10:**

Has the Defendant, since January 1, 2000, been sued by any other dental group with which it has a management contract or performs management services?

**RESPONSE:** ISC objects that this interrogatory is not reasonably calculated to lead to the discovery of admissible evidence and propounded solely for the purpose of harassment and undue expense.

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 7

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**INTERROGATORY NO. 11:**

Identify any person having knowledge of the facts stated in your answer to Interrogatory No. 10.

**RESPONSE:** ISC incorporates its objections to Interrogatory No. 10 herein.

**INTERROGATORY NO. 12:**

Identify the operational and accounting documents upon which you rely to establish your damage claim, as disclosed by you in your Initial Disclosures dated February 25, 2004.

**RESPONSE:** Pursuant to Fed. R. Civ. P. 33(d), ISC will produce responsive business records upon entry of an acceptable protective order for confidential and proprietary business information.

**INTERROGATORY NO. 13:**

Identify any of the documents related to the 1996 acquisition by GMS Dental Management, as disclosed by you in your Initial Disclosures dated February 25, 2004.

**RESPONSE:** ISC objects that the interrogatory is overbroad and seeks information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence because plaintiff's stipulation in U.S. Bankruptcy Court that ISC would assume the Management Agreement precludes plaintiff from challenging the existence of ISC's rights under that Agreement. Without waiving its objections, pursuant to Fed. R. Civ. P. 33(d), ISC will produce the merger documents.

**INTERROGATORY NO. 14:**

Describe with specificity any alleged breach of the management agreement by Plaintiff, including but not limited to:

- a. The substance of such alleged breach;
- b. The date on which the alleged breach occurred; and

**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE DEFENDANT INTERDENT SERVICE CORPORATION - 8**

c. The damages you allege to have suffered as a result of the alleged breach[.]

**RESPONSE:** ISC objects that this interrogatory contains subparts and that therefore the number of plaintiff's interrogatories exceeds that permitted by Fed. R. Civ. P. 33(a). Without waiving its objections, ISC states that plaintiff materially breached the Management Agreement in various respects, including but not limited to:

a. Plaintiff's failure to enforce its right to prevent its members and/or its employees from competing with, diverting revenue away from and/or otherwise damaging ISC. Since the fall of 2003, plaintiff has failed to enforce noncompete agreements with Dwight Romriell, Larry R. Misner, Jr. and Larry Bybee in violation of its duties to ISC. Plaintiff has conspired with them to take business from the practice.

b. ISC is informed and believes that plaintiff has failed to pay, or make available, certain revenues owed to ISC; in particular, ISC is informed and believes that plaintiff has aided, abetted and conspired with Dwight Romriell in withholding sums belonging to the Pocatello practice, including but not limited to compromising sums due on accounts without ISC's approval.

c. Plaintiff's material impairment of ISC's right to hire and terminate nonprofessionals under Article 3.8(b). Plaintiff obtained an ex parte temporary restraining order in October 2003 requiring ISC to maintain on staff five of Dwight Romriell's cronies for the few patients he was seeing.

d. Plaintiff's material impairment of ISC's right to hire and terminate nonprofessionals under Article 4.4(b). Plaintiff obtained an ex parte temporary restraining order

in October 2003 requiring ISC to maintain on staff five of Dwight Romriell's cronies for the few patients he was seeing.

e. Plaintiff's purported execution of the 2003 Employment Agreement with Romriell in violation of Article 5.2(a). This occurred in August 2003.

f. Plaintiff's purported execution of the 2003 Employment Agreement with Romriell in violation of Article 5.2(b). This occurred in August 2003.

g. Plaintiff's use of goods and services provided by ISC under the Management Agreement for purposes other than the provision and management of dental services as contemplated by the Management Agreement and the purposes incidental thereto, in violation of Article 5.6. At about the time plaintiff began its pretextual litigation in Idaho state court and the time Dwight Romriell was setting up an office in Pocatello to compete with the practice, there was an unexplained increase in the use of supplies at the office. Romriell left the office with briefcases full of materials.

h. Plaintiff's commission and allowance of acts that have materially impaired plaintiff's ability to carry on the business of the practice or to fulfill its obligations under the Management Agreement. These acts demonstrating "seller's remorse" are detailed in the Wintergreen report by the consultant hired by plaintiff to evaluate the practice (attached hereto as Exhibit 1). Plaintiff has further failed to enforce noncompete agreements with departing dentists and have stated publicly that the office will be closing, to the detriment of, at a minimum, employee morale. Plaintiff's failure to consider the profitability of the practice in any of its acts and omissions has resulted in a declining revenue and profit trend.

i. Plaintiff's diversion of the mail from the practice in violation of Article 4 of the Management Agreement. This breach is detailed in the pleadings already on file in this case. The diversion of the mail in January 2004 was plaintiff's shareholders' second attempt to divert the mail. In the summer of 2003, Dwight Romniell tried a similar scheme but was caught before it was consummated.

**INTERROGATORY NO. 15:**

Provide a detailed itemization of the damages you are claiming in your counterclaim.

**RESPONSE:** ISC objects to this request as vague to the extent "detailed itemization" is undefined. Notwithstanding this objection, pursuant to Fed. R. Civ. P. 33(d), see response to Request for Production No. 31 upon the entry of an acceptable protective order.

**INTERROGATORY NO. 16:**

Provide a detailed list of any new or used equipment you have purchased and placed upon the premises for the Plaintiffs or its dentists' use between January 1, 2000 and the date of your response to this interrogatory.

**RESPONSE:** ISC objects that this interrogatory is overbroad and calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it calls for documents before the conformation of ISC's Plan of Reorganization on October 3, 2003. Pursuant to Fed. R. Civ. P. 33(d), ISC will produce responsive documents.

**INTERROGATORY NO. 17:**

Provide a detailed list of any equipment located in the premises which you have replaced because it had fallen into disrepair and/or become obsolete between January 1, 2000 and the date of your response to this interrogatory.

**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 11**

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**RESPONSE:** ISC objects that the Interrogatory is overbroad and calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it calls for documents before the conformation of ISC's Plan of Reorganization on October 3, 2003. Without waiving its objections, ISC states, pursuant to Fed. R. Civ. P. 33(d), see response to Request for Production No. 16 for the permissible time period, after October 3, 2003.

**INTERROGATORY NO. 18:**

Identify all staff you have hired to work in the premises between January 1, 2000 and the date of your response to this interrogatory.

**RESPONSE:** ISC objects that this interrogatory is overbroad and calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it calls for documents before the conformation of ISC's Plan of Reorganization on October 3, 2003. Without waiving its objections, pursuant to Fed. R. Civ. P. 33(d), ISC will produce responsive documents.

**INTERROGATORY NO. 19:**

With respect to each such staff member identified in your answer to Interrogatory No. 18, describe their training and experience at the time they were hired to work on the premises.

**RESPONSE:** ISC objects to this request as unduly broad and overly burdensome and incorporates its objections to Interrogatory No. 18. Without waiving its objections, ISC states that, pursuant to Fed. R. Civ. P. 33(d), it is producing training materials.

**INTERROGATORY NO. 20:**

Identify all attorneys you have hired to represent the Plaintiff in any legal matter.

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 12

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**RESPONSE:** ISC objects that this interrogatory is neither relevant nor calculated to lead to the discovery of admissible evidence on any claim or defense in this action and that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC states that it has not hired any attorneys to represent plaintiff since October 3, 2003.

**INTERROGATORY NO. 21:**

Identify the amount and source of any payment for legal fees or costs you paid to any attorney or law firm identified in your answer to Interrogatory No. 20.

**RESPONSE:** Not applicable. See response to Interrogatory No. 20.

**INTERROGATORY NO. 22:**

Describe the nature of the representation provided by any lawyer or law firm identified in your answer to Interrogatory No. 20[.]

**RESPONSE:** Not applicable. See response to Interrogatory No. 20.

**RESPONSES TO REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:**

Produce the agenda for, and minutes of all JOC meetings for the three year period preceding the date you respond to this request.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC will produce documents for the discoverable time period.

**REQUEST FOR PRODUCTION NO. 2:**

Produce the monthly, quarterly and annual profit and loss statements generated by Defendant with respect to the Plaintiff's

**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 13**

dental practice for the period beginning on October 11, 1996 and continuing up through the date you respond to these requests.

**RESPONSE:** ISC will produce responsive documents for a reasonable time period, since January 1, 2002, upon the entry of an acceptable protective order covering confidential and proprietary business information.

**REQUEST FOR PRODUCTION NO. 3:**

Produce any document which contains any of the terms and conditions of Gentle Dental Management, Inc.'s merger with Gentle Dental Service Corporation.

**RESPONSE:** ISC objects that this interrogatory is overbroad and seeks information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence because plaintiff's stipulation in U.S. Bankruptcy Court that ISC would assume the Management Agreement precludes plaintiff from challenging the existence ISC's rights under that agreement. Without waiving its objections, ISC will produce the merger documents.

**REQUEST FOR PRODUCTION NO. 4:**

Produce any document which evidences Defendant's succession to, or ability to enforce the rights of GMS in and to the management agreement.

**RESPONSE:** ISC objects that this interrogatory is overbroad and seeks information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence because plaintiff's stipulation in U.S. Bankruptcy Court that ISC would assume the Management Agreement precludes plaintiff from challenging the existence ISC's rights under that agreement. Without waiving its objections, ISC will produce the merger documents.

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RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 14

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**REQUEST FOR PRODUCTION NO. 5:**

Produce the "2028" list or *[sic]* any other document prepared by the Defendant which identifies dental patients who, at any time, were not called back for dental care, or were refused, for any reason, the right to obtain or continue to receive dental care from the Plaintiff or its dentists.

**RESPONSE:** ISC objects that this request calls for the productions of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC has no discoverable documents it can confirm were generated during the discoverable time period.

**REQUEST FOR PRODUCTION NO. 6:**

Produce any document which evidences GMS's change of name to Gentle Dental Management, Inc.

**RESPONSE:** ISC objects that this interrogatory is overbroad and seeks information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence because plaintiff's stipulation in U.S. Bankruptcy Court that ISC would assume the Management Agreement precludes plaintiff from challenging the existence ISC's rights under that agreement. ISC further objects that this request is unduly burdensome and oppressive in seeking "any document." Without waiving its objections, ISC will produce responsive documents.

**REQUEST FOR PRODUCTION NO. 7:**

Produce any document which evidences Gentle Dental Service Corporation's change of name to InterDent Service Corporation.



**RESPONSE:** ISC objects that this interrogatory is overbroad and seeks information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence because plaintiff's stipulation in U.S. Bankruptcy Court that ISC would assume the Management Agreement precludes plaintiff from challenging the existence of ISC's rights under that agreement. ISC further objects that this request is unduly burdensome and oppressive in seeking "any document." Without waiving its objections, ISC will produce responsive documents.

**REQUEST FOR PRODUCTION NO. 8:**

Produce any document which evidences Defendant's claim, as set out in paragraph 8 of the October 31, 2003 affidavit of Ivar Chhina, that the Plaintiff wrote off over \$76,000 in dentistry as "professional" or "courtesy" discounts in the first quarter of 2003.

**RESPONSE:** Without waiving its objections, ISC will produce documents for the discoverable time period, if any, upon the entry of an acceptable protective order.

**REQUEST FOR PRODUCTION NO. 9:**

Produce any document which evidences Defendant's claim, as set out in paragraph 2 of the October 31, 2003 affidavit of Ivar Chhina, that Defendant or its predecessors in interest paid \$2.8 million in cash and stock to the shareholders of Plaintiff.

**RESPONSE:** ISC objects that this request calls for information in the possession of plaintiff and equally available to it. Without waiving its objections, ISC states that the relevant documents are already in the record in this case.

**REQUEST FOR PRODUCTION NO. 10:**

Produce any document evidencing the Plaintiff or its dentists' request to the Defendant for equipment, supplies, staff or other support for their dental practice.

**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE DEFENDANT INTERDENT SERVICE CORPORATION - 16**

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. ISC further objects that responsive documents are the possession, custody or control of plaintiff. Without waiving its objections, ISC will produce documents for the discoverable time period, if any.

**REQUEST FOR PRODUCTION NO. 11:**

Produce any document containing information identifying the name and address of any of the Plaintiffs, or of its dentists' patients for the period commencing on January 1, 2000 up through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. ISC further objects that such documents are equally available to plaintiff in the Pocatello office. ISC further objects that this request is calculated for the purpose of undue expense and harassment and/or using the requested information to compete in violation of the agreements signed by plaintiff's shareholders.

**REQUEST FOR PRODUCTION NO. 12:**

Produce any document containing Defendant's past and present policies or procedures relating to the billing and collection of patient accounts pursuant to the management agreement.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC will produce documents for the discoverable time period, if any.

**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 17**

**REQUEST FOR PRODUCTION NO. 13:**

Produce any document containing information describing and/or quantifying any of the Plaintiff's revenues, including accounts receivable, for each month during the period commencing on October 11, 1996 and continuing through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. ISC further objects that the request contains an erroneous legal conclusion in using the term "Plaintiff's Revenues." Without waiving its objections, ISC will produce documents for the discoverable time period, if any, upon the entry of an acceptable protective order.

**REQUEST FOR PRODUCTION NO. 14:**

Produce any document containing information describing and/or quantifying any of the Plaintiffs accounts payable or any other expense and liability of the Plaintiff for each month during the period commencing on October 11, 1996 up through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC will produce documents for the discoverable time period, if any, upon the entry of an acceptable protective order.

**REQUEST FOR PRODUCTION NO. 15:**

Produce any document containing the agenda for, or minutes of any meeting of the Dental Advisory Board during the period commencing on January 1, 2000 up through the date of your response to these discovery requests.

**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 18**

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 16:**

Produce any document containing a description of any equipment, fixture, or furniture purchase or leasehold improvement relating to the premises during the period commencing on October 11, 1996 and continuing up through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC will produce documents for the discoverable time period.

**REQUEST FOR PRODUCTION NO. 17:**

Produce any document reflecting any adjustments to any accounts receivable of the Plaintiff which were made by Defendant during the period commencing on January 1, 2000 up through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC will produce documents for the discoverable time period, if any, upon the entry of an acceptable protective order complying with HIPAA protecting patient health information.

**REQUEST FOR PRODUCTION NO. 18:**

Produce any document reflecting any interest charged to, and/or collected by Defendant as a part of Plaintiff's revenues, including interest charged to Plaintiff's accounts receivable, during

**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 19**

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the period commencing on January 1, 2000 up through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. ISC further objects that the request contains an erroneous legal conclusion in using the term "Plaintiff's Revenues." Without waiving its objections, ISC states that in the Management Agreement plaintiff assigned the practice revenues to ISC. Therefore interest earned on the revenues, if any, belongs to ISC. Without waiving its objections, ISC will produce responsive documents generated after October 3, 2003 subject to a protective order.

**REQUEST FOR PRODUCTION NO. 19:**

Produce any document consisting of the Defendant's state and federal income tax returns for the period commencing on October 11, 1996 up through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. ISC further objects that this request is propounded solely for the purpose of harassment and undue expense.

**REQUEST FOR PRODUCTION NO. 20:**

Produce any document which identifies and/or quantifies any vacation pay, paid time off, or other employee costs or benefits which you have charged back to or collected from the Plaintiff or its dentists during the period commencing on January 1, 2000 up through the date of your response to these discovery requests.

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 20

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**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving its objections, ISC will produce responsive documents.

**REQUEST FOR PRODUCTION NO. 21:**

Produce any documents relating to the land lease at 4155 Yellowstone Ave, Pocatello, Idaho, including a copy of the lease and any amendments, renewals and any correspondence relating thereto.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR PRODUCTION NO. 22:**

Produce any documents relating to any training given to any employee of Defendant as it relates to their duties to be performed at the premises during the period commencing on October 11, 1996 up through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC will produce documents for the discoverable time period.

**REQUEST FOR PRODUCTION NO. 23:**

Produce any documents containing information relating to any civil complaint or lawsuit prosecuted for or against the Plaintiff and for or against the Defendant, other than the instant action, during the period commencing on October 11, 1996 up through the date of your response to these discovery requests.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. ISC further objects that this request is propounded solely for the purpose of harassment and undue expense.

**REQUEST FOR PRODUCTION NO. 24:**

Produce any document containing Plaintiff's letterhead which has been authored and/or executed by any employee of Defendant.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. ISC further objects that this request is propounded solely for the purpose of harassment and undue expense and calls for information in plaintiff's possession or equally available to plaintiff.

**REQUEST FOR PRODUCTION NO. 25:**

Produce any document which contains the terms or conditions of any employment agreement between the Defendant and any of its employees whose duties, in whole or in part, relate to Defendant's obligations under the management agreement.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. ISC further objects that this request is propounded solely for the purpose of harassment and undue expense and the invasion of employee privacy rights.

**REQUEST FOR PRODUCTION NO. 26:**

Produce any document which contains the terms or conditions of any employment agreement between the Defendant

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 22

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and any of its employees whose duties, in whole or in part, require them to work at the premises.

**RESPONSE:** Defendant has no responsive documents.

**REQUEST FOR PRODUCTION NO. 27:**

Produce any document which constitutes a "mail log" as ordered by Judge Lodge on February 9, 2004.

**RESPONSE:** ISC will produce responsive documents.

**REQUEST FOR PRODUCTION NO. 28:**

Produce any document evidencing any HIPPA [sic] violations on the part of the Plaintiff or its dentists.

**RESPONSE:** ISC objects that these documents are in the possession, custody or control of plaintiff and its current and former employees, in particular the patient files stolen from the premises by Greg and Dwight Romriell. The removal of any files from the premises without written patient authorization constitutes a HIPAA violation.

**REQUEST FOR PRODUCTION NO. 29:**

Produce any document evidencing any contract between Plaintiff and any insurance carrier or governmental entity, or any of Plaintiff's dentists and any such third party.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. ISC further objects that this request is propounded solely for the purpose of harassment and undue expense. Without waiving its objections, ISC will produce responsive documents.

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**RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 23**

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**REQUEST FOR PRODUCTION NO. 30:**

Produce any document which records the hours worked, or services performed by Holli Bauer and Elyse Harper for the period of their employment.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving its objections, ISC will produce responsive documents.

**REQUEST NO. 30 [sic]:**

Produce any written or oral statement taken by you of any of the persons disclosed by you in your Initial Disclosures dated February 25, 2004, as having information related to this litigation.

**RESPONSE:** ISC objects that this request calls for information protected by the attorney-client and work-product privileges.

**REQUEST FOR PRODUCTION NO. 31:**

Produce any operational or accounting records related to Defendant's damage claim, as disclosed by you in your Initial Disclosures dated February 25, 2004.

**RESPONSE:** ISC will produce responsive documents upon the entry of an acceptable protective order covering proprietary and confidential business information.

**REQUEST FOR PRODUCTION NO. 32:**

Produce any documents related to any authorization or approval from Plaintiff for you to employ any lawyer or law firm to represent the Plaintiff.

**RESPONSE:** ISC objects that this request calls for the production of documents neither admissible in this action nor reasonably calculated to lead to the discovery of admissible

evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC states that it has no responsive documents.

**REQUEST FOR PRODUCTION NO. 33:**

Produce any documents related to your claim that you paid \$2.8 Million in cash and stock to the Plaintiff's shareholders.

**RESPONSE:** Such documents are already in the record in this case.

**REQUEST FOR PRODUCTION NO. 34:**

Produce any document which identifies any person having custody or control of any of the Plaintiff or its dentists' patient records.

**RESPONSE:** ISC objects that this request is vague, ambiguous and unintelligible. To the extent it is intelligible, it calls for the production of documents neither relevant to this case nor reasonably calculated to lead to the discovery of admissible evidence.

**REQUESTS FOR ADMISSION**

**REQUEST FOR ADMISSION NO. 1:**

Admit that prior to February 9, 2004, cash, revenues, and other forms of payment for the Plaintiff's dental related activities were not deposited to an account or accounts in the name of Plaintiff at a banking institution selected by Plaintiff and approved by Defendant.

**RESPONSE:** ISC objects that this request is neither relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving its objections, ISC states: admitted.

**REQUEST FOR ADMISSION NO. 2:**

Admit that Defendant, without the consent of the Plaintiff or its dentists, has (1) refused to recall some of Plaintiffs or its dentists' patients for treatment, and/or (2) denied such patients the

opportunity to obtain or continue to receive dental care from the Plaintiff or its dentists.

**RESPONSE:** ISC objects that this request is compound, vague and ambiguous. Without waiving its objections, ISC states that it is unaware of any patient plaintiff requested to receive care who was denied. ISC will not supplement this response for information manufactured by plaintiff for the purpose of this litigation and/or to avoid summary judgment.

**REQUEST FOR ADMISSION NO. 3:**

Admit that some of those patients you have not recalled for dental care, and/or those patients you have denied the opportunity to obtain or continue to receive dental care from the Plaintiff or its dentists, have terminated their dentist/patient relationship with the Plaintiff and its dentists.

**RESPONSE:** ISC objects that this request assumes facts not in evidence and is argumentative.

**REQUEST FOR ADMISSION NO. 4:**

Admit that Defendant did not pay \$2.8 million in cash and stock to the shareholders of Plaintiff, but that any such payment was made by Defendant's predecessor in interest, GMS.

**RESPONSE:** Plaintiff's stipulation in U.S. Bankruptcy Court that ISC would assume the Management Agreement precludes plaintiff from challenging the existence of ISC's rights as successor to GMS. Consequently, this request calls for information not relevant to this action nor reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST FOR ADMISSION NO. 5:**

Admit that from time to time the Plaintiff or its dentists have requested you to obtain equipment, supplies, staff or other support for their dental practice.

**RESPONSE:** ISC objects that this request calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC states: admitted.

**REQUEST FOR ADMISSION NO. 6:**

Admit that you have refused the Plaintiff and its dentists' requests for equipment, supplies, staff or other support for their dental practice without presenting the request to the JOC for consideration.

**RESPONSE:** ISC objects that this request calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. Without waiving its objections, ISC states that, to the best of its knowledge and information, denied. ISC's investigation is continuing. ISC will not supplement this response for information manufactured by plaintiff for the purpose of this litigation and/or to avoid summary judgment.

**REQUEST FOR ADMISSION NO. 7:**

Admit that Defendant has not made timely payment of, or delivered to the Plaintiff revenues sufficient to timely pay and discharge Plaintiff's obligations and liabilities, including its obligation to pay its attorney fees and costs incurred in responding to Defendant's chapter 11 bankruptcy proceeding and to the Defendant's counterclaim filed in this action.

**RESPONSE:** ISC objects that this request is argumentative and assumes facts not in evidence and makes legal conclusions. For the reasons stated in ISC's Opposition to Plaintiff's Motion for Attorneys' Fees and Costs, plaintiff is solely responsible for fees incurred in making

and then abandoning a bankruptcy proceeding and for the pretextual and unsupported claims asserted by plaintiff in this litigation.

**REQUEST FOR ADMISSION NO. 8:**

Admit that during the period of time commencing on October 11, 1996 and continuing through the date you answer these discovery requests, Defendant has not distributed to Plaintiff or its dentists any revenues (as that term is defined in paragraph 2.4 of the management agreement) which Defendant or its predecessors have collected as interest on Plaintiff's revenues or accounts receivable.

**RESPONSE:** ISC objects that this request calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. ISC further objects that the request contains an erroneous legal conclusion in using the term "Plaintiff's revenues." Without waiving its objections, ISC states that in the Management Agreement, plaintiff assigned the practice revenues to ISC. Therefore, interest earned on the revenues, if any, belongs to ISC.

**REQUEST FOR ADMISSION NO. 9:**

Admit that you have hired lawyers to represent the Plaintiff without the Plaintiff's knowledge or consent.

**RESPONSE:** ISC objects that this request calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. For the discoverable time period, ISC states: denied.

**REQUEST FOR ADMISSION NO. 10:**

Admit that you have paid, from Plaintiff's revenues, the fees charged and costs incurred by lawyers you have hired to represent the Plaintiff.

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 28

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**RESPONSE:** ISC objects that this request calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. For the discoverable time period, ISC states: denied.

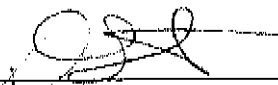
**REQUEST FOR ADMISSION NO. 10 [sic]:**

Admit that your stock has no value.

**RESPONSE:** ISC objects that this request is not reasonably calculated to lead to the discovery of admissible evidence and propounded solely for the purpose of harassment.

DATED: May 16, 2004.

STOEL RIVES LLP

  
\_\_\_\_\_  
Erik F. Stidham, ISB #5483  
G. Rey Reinhardt, ISB #6209  
Scott J. Kaplan, pro hac vice  
Darian A. Stanford, pro hac vice

Attorneys for Defendant/Third-Party Plaintiff  
InterDent Service Corporation

**VERIFICATION**

I declare under penalty of perjury under the laws of Washington that the foregoing Response to Plaintiff's First Set of Discovery Requests to the Defendant InterDent Service Corporation is true and correct to the best of my knowledge, information and belief.

\_\_\_\_\_  
Name:  
Title:

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 29

**RESPONSE:** ISC objects that this request calls for information neither admissible in this action nor reasonably calculated to lead to the discovery of admissible evidence in that it is not limited in time to events after October 3, 2003. For the discoverable time period, ISC states: denied.

**REQUEST FOR ADMISSION NO. 10 [sic]:**

Admit that your stock has no value.

**RESPONSE:** ISC objects that this request is not reasonably calculated to lead to the discovery of admissible evidence and propounded solely for the purpose of harassment.

DATED: May 21, 2004.

STOEL RIVES LLP

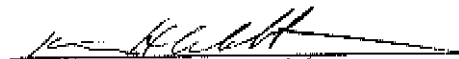
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Erik F. Stidham, ISB #5483  
G. Rey Reinhardt, ISB #6209  
Scott J. Kaplan, pro hac vice  
Darian A. Stanford, pro hac vice

Attorneys for Defendant/Third-Party Plaintiff  
InterDent Service Corporation

**VERIFICATION**

I declare under penalty of perjury under the laws of Washington that the foregoing Response to Plaintiff's First Set of Discovery Requests to the Defendant InterDent Service Corporation is true and correct to the best of my knowledge, information and belief.

  
Name: Kevin H. Webb  
Title: Vice President, Operations

RESPONSE TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE  
DEFENDANT INTERDENT SERVICE CORPORATION - 29

# **CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing **REPLY TO PLAINTIFF'S FIRST SET OF DISCOVERY REQUESTS TO THE DEFENDANT INTERDENT SERVICE CORPORATION** on the following named persons on the date indicated below by

- ☒ mailing with postage prepaid
- ☐ hand delivery
- ☐ facsimile transmission
- ☐ overnight delivery

to said persons a true copy thereof, contained in a sealed envelope, addressed to said persons at his or her last-known addresses indicated below.

Mr. Richard A. Hearn  
Racine, Olson, Nye, et al.  
PO Box 1391 / Center Plaza  
Pocatello, ID 83204-1391  
Fax: (208) 232-6109

Of Attorneys for Dr. Larry Misner, Jr.  
Porter Sutton, and Ernest Sutton

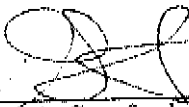
Mr. Ron Kerl  
Cooper & Larsen  
PO Box 4229  
Pocatello, ID 83201  
Fax: 208-235-1145

Of Attorneys for Plaintiff Pocatello  
Dental Group

Mr. Lowell N. Hawkes  
1322 E. Center Street  
Pocatello, ID 83201  
Fax: 208-235-4200

Of Attorneys for Defendants Romriell,  
Ormond, and Goodliffe

DATED: May 17, 2004.

  
Darian A. Stanford, OSB No. 99449

Of Attorneys for Defendant Interdent Service  
Corporation



## **EXHIBIT 2**

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Portland, OR 97204-1268  
Telephone: (503) 224-3380  
Facsimile: (503) 220-2480

Attorneys for Defendant/Third-Party Plaintiff  
InterDent Service Corporation

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO

POCATELLO DENTAL GROUP, P.C., an  
Idaho professional corporation,

Plaintiff,

v.

INTERDENT SERVICE CORPORATION, a  
Washington corporation,

Defendant.

Case No. CV-03-450-E-LMB

RESPONSE TO PLAINTIFF'S  
REQUESTS FOR ADMISSIONS  
DIRECTED TO INTERDENT SERVICE  
CORPORATION

INTERDENT SERVICE CORPORATION, a  
Washington corporation,

RESPONSE TO PLAINTIFF'S REQUESTS FOR ADMISSIONS DIRECTED TO INTERDENT  
SERVICE CORPORATION - 1

PortInd3-1482638.1 0021164-00081

Third-Party Plaintiff,

v.

POCATELLO DENTAL GROUP, P.C., an  
Idaho professional corporation; DWIGHT G.  
ROMRIELL, individually; LARRY R.  
MISNER, JR., individually; PORTER  
SUTTON, individually; ERNEST SUTTON,  
individually; GREGORY ROMRIELL,  
individually; ERROL ORMOND,  
individually; and ARNOLD GOODLIFFE,  
individually,

Third-Party Defendants.

Defendant/third-party plaintiff InterDent Service Corporation ("ISC") responds as  
follows to plaintiff's Requests for Admissions (the "Requests") as follows.

#### GENERAL OBJECTIONS

1. In responding to the requests, ISC does not waive and expressly reserves (a) any  
objections as to competency, relevancy, materiality, privilege or admissibility with respect to any  
of the requests; (b) the right to object to other discovery procedures involving or related to the  
subject matter of the requests; and (c) the right at any time to revise, correct, add to or clarify any  
of the information provided.

2. ISC objects generally to plaintiff's requests to the extent they seek work product,  
trial preparation materials or material protected by the attorney-client privilege. ISC does not  
intend to produce any information that contains such materials and does not waive any objections  
to such information that is inadvertently produced.

Without waiving its general objections, ISC responds to the individual requests as  
follows:

RESPONSE TO PLAINTIFF'S REQUESTS FOR ADMISSIONS DIRECTED TO INTERDENT  
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## **RESPONSES TO SPECIFIC REQUESTS FOR ADMISSION**

### **REQUEST FOR ADMISSION NO. 1:**

Admit that Exhibit "A" attached hereto is a true and accurate copy of a letter from the State of Idaho Department of Health & Welfare, dated March 29, 2004, and addressed to Leroy Misner, D.D.S.

**RESPONSE:** Admitted.

### **REQUEST FOR ADMISSION NO. 2:**

Admit that Exhibit "A" attached hereto makes demand upon Misner for the return of \$20,384 in over billings previously paid by State of Idaho Department of Health & Welfare in connection with dental services Misner performed for Group.

**RESPONSE:** Denied. The demand is for allegedly fraudulent practices that are outside the scope of Misner's duties for Group and were not authorized by ISC.

### **REQUEST FOR ADMISSION NO. 3:**

Admit that pursuant to paragraph 4.6 of the Management Agreement between Group and ISC, ISC is responsible for billing and collection of professional fees related to dental services performed by Group and the dentists it has employed, including Dr. Misner.

**RESPONSE:** Admitted.

### **REQUEST FOR ADMISSION NO. 4:**

Admit that pursuant to paragraph 2.6(b) and 4.6(d) of the Management Agreement ISC is responsible for paying all claims and obligations associated with the operation of Group and ISC is charged with settling and compromising claims.

**RESPONSE:** Denied. In particular, ISC has no responsibility for allegedly fraudulent practices by Group employees.

**RESPONSE TO PLAINTIFF'S REQUESTS FOR ADMISSIONS DIRECTED TO INTERDENT SERVICE CORPORATION - 3**

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**REQUEST FOR ADMISSION NO. 5:**

Admit that on April 7, 2004, Group made demand upon ISC, through its counsel Scott J. Kaplan, to pay and satisfy the claim of the State of Idaho Department of Health and Welfare, as contained in Exhibit "A."

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 5 [sic]:**

Admit that on April 20, 2004, through its counsel Scott J. Kaplan, ISC declined to become involved in paying, satisfying, settling or compromising the claim of the State of Idaho Department of Health and Welfare, as contained in Exhibit "A."

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 6:**

Admit that Exhibit "B" attached hereto is a true and accurate copy of a letter from Richard A. Hearn, attorney for L. R. Misner, dated April 6, 2004, and addressed to Ron Kerl, attorney for Group.

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 7:**

Admit that Exhibit "B" attached hereto makes demand upon Group to settle Misner's counter-claim on file in this action, and other claims he has against Group, as set forth in Exhibit "B."

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 8:**

Admit that L. R. Misner was a "provider" as that term is used in paragraphs 5.1 and 5.2 of the Management Agreement.

**RESPONSE:** Admitted.

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RESPONSE TO PLAINTIFF'S REQUESTS FOR ADMISSIONS DIRECTED TO INTERDENT  
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**REQUEST FOR ADMISSION NO. 9:**

Admit that L. R. Misner claims, as set forth in his counterclaim on file herein and as set out in Exhibit "B", arise out of a "provider subcontract" as that term is used in paragraphs 5.1 and 5.2 of the Management Agreement.

**RESPONSE:** Denied. The claims result from alleged fraudulent practices by Misner.

**REQUEST FOR ADMISSION NO. 10:**

Admit that pursuant to paragraph 2.6(b) and 4.6(d) of the Management Agreement ISC is responsible for paying all claims and obligations associated with the operation of Group, including those under provider subcontracts and employment agreements with providers, and ISC is charged with settling and compromising such claims.

**RESPONSE:** Denied.

**REQUEST FOR ADMISSION NO. 11:**

Admit that on April 7, 2004, Group made demand upon ISC, through its counsel Scott J. Kaplan, to pay and satisfy the claim of L. R. Misner, as contained in Exhibit "B."

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 12:**

Admit that ISC has declined to become involved in paying, satisfying, settling or compromising the claim of L. R. Misner, as contained in his counter-claim and in Exhibit "B."

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 13:**

Admit that Exhibit "C" attached hereto is a true and accurate copy of a letter from Richard A. Hearn, attorney for Larry Bybec, dated April 6, 2004, and addressed to Ron Kerl, attorney for Group.

**RESPONSE:** Admitted.

**RESPONSE TO PLAINTIFF'S REQUESTS FOR ADMISSIONS DIRECTED TO INTERDENT SERVICE CORPORATION - 5**

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**REQUEST FOR ADMISSION NO. 14:**

Admit that Exhibit "C" attached hereto makes demand upon Group to settle the claims of Bybee, as set forth in Exhibit "C."

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 15:**

Admit that Bybee was a "provider" as that term is used in paragraphs 5.1 and 5.2 of the Management Agreement.

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 16:**

Admit that Bybee claims, set forth in Exhibit "C," arise out of a "provider subcontract" as that term is used in paragraphs 5.1 and 5.2 of the Management Agreement.

**RESPONSE:** Denied. The claim arises out of alleged fraudulent practices by Group employees.

**REQUEST FOR ADMISSION NO. 17:**

Admit that pursuant to paragraph 2.6(b) and 4.6(d) of the Management Agreement ISC is responsible for paying all claims and obligations associated with the operation of Group, including those under provider subcontracts and employment agreements with providers, and ISC is charged with settling and compromising such claims.

**RESPONSE:** Denied.

**REQUEST FOR ADMISSION NO. 18:**

Admit that on April 7, 2004, Group made demand upon ISC, through its counsel Scott J. Kaplan, to pay and satisfy the claim of Bybee, as contained in Exhibit "C."

**RESPONSE:** Admitted.

**RESPONSE TO PLAINTIFF'S REQUESTS FOR ADMISSIONS DIRECTED TO INTERDENT SERVICE CORPORATION - 6**

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**REQUEST FOR ADMISSION NO. 19:**

Admit that ISC declined to become involved in paying, satisfying, settling or compromising the claim of Bybee, as contained in Exhibit "C."

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 20:**

Admit that the claims of the State of Idaho, L. R. Misner and Larry Bybee (as set out in Exhibits "A," "B," and "C" attached hereto, and Misner's counterclaim on file herein) were not included in Group's proof of claim filed in ISC's chapter 11 bankruptcy proceeding.

**RESPONSE:** Admitted. ISC denies that the documents set forth claims against ISC.

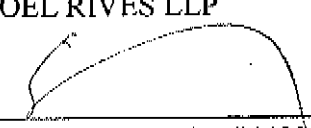
**REQUEST FOR ADMISSION NO. 21:**

Admit that the claims of the State of Idaho, L. R. Misner and Larry Bybee (as set out in Exhibit "A," "B," and "C" attached hereto, and Misner's counterclaim on file herein) were not raised in the objection Group filed in response to ISC's motion to assume the Management Agreement in its chapter 11 bankruptcy proceeding.

**RESPONSE:** Admitted. ISC denies that the documents relate to its responsibilities under the Management Agreement.

DATED: June 3, 2004.

STOEL RIVES LLP



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Erik F. Stidham, ISB #5483  
G. Rey Reinhardt, ISB #6209  
Scott J. Kaplan, pro hac vice  
Darian A. Stanford, pro hac vice

Attorneys for Defendant/Third-Party Plaintiff  
InterDent Service Corporation

RESPONSE TO PLAINTIFF'S REQUESTS FOR ADMISSIONS DIRECTED TO INTERDENT  
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## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **Response to Plaintiff's Requests for Admissions Directed to Interdent Service Corporation** on the following named persons on the date indicated below by

- ☒ mailing with postage prepaid
- ☐ hand delivery
- ☐ facsimile transmission
- ☐ overnight delivery

to said persons a true copy thereof, contained in a sealed envelope, addressed to said persons at his or her last-known addresses indicated below.

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Ron Kerl  
James P. Price  
COOPER & LARSEN  
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Attorneys for Plaintiff/Third-Party  
Defendant Pocatello Dental Group, P.C.

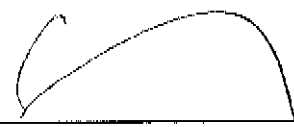
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Attorney for Third-Party Defendants  
Dwight G. Romriell, Gregory Romriell,  
Errol Ormond and Arnold Goodliffe

DATED: June 3, 2004.



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Scott J. Kaplan, OSB No. 91335  
Attorneys for Defendant/Third-Party Plaintiff  
InterDent Service Corporation